

VZCZCXRO6784  
OO RUEHCN RUEHGH RUEHVC  
DE RUEHBJ #2103/01 1510949  
ZNY CCCCC ZZH  
O 300949Z MAY 08  
FM AMEMBASSY BEIJING  
TO RUEHC/SECSTATE WASHDC IMMEDIATE 7641  
INFO RUEHOO/CHINA POSTS COLLECTIVE  
RUEAIIA/CIA WASHINGTON DC  
RHEHNSC/NSC WASHDC

C O N F I D E N T I A L SECTION 01 OF 10 BEIJING 002103

SIPDIS

DEPARTMENT FOR DRL

E.O. 12958: DECL: 05/30/2033  
TAGS: [PHUM](#) [PREL](#) [KOLY](#) [CH](#) [UN](#)  
SUBJECT: THE U.S.-CHINA HUMAN RIGHTS DIALOGUE, MORNING  
SESSION, MAY 26, 2008

Classified By: Political Minister Counselor Aubrey Carlson. Reasons 1.  
4 (b) and (d).

[1](#)1. (U) May 26, 2008; 9:30 a.m.; Beijing, Diaoyutai State  
Guesthouse

[1](#)2. (U) Participants:

U.S.

---

David J. Kramer, Assistant Secretary of State for Democracy,  
Rights, and Labor (DRL)  
John V. Hanford, Ambassador at Large for International  
Religious Freedom  
Dan Piccuta, Charge d'Affaires, a.i., Embassy Beijing  
Thomas Christensen, Deputy Assistant Secretary of State for  
East Asian and Pacific Affairs  
Robert K. Harris, Assistant Legal Advisor, Department of State  
Richard W. Behrend, PRM Advisor, Department of State  
Susan O'Sullivan, Senior Advisor, DRL  
Dan Kritenbrink, Political Officer, Embassy Beijing  
Amy Chang-Lee, Legal Advisor, Embassy Beijing  
Eric Barboriak, Political Officer, Embassy Beijing (notetaker)  
Michael Hale, Political Officer, Embassy Beijing (notetaker)  
Emilie L. Kao, Foreign Affairs Officer, DRL/International  
Religious Freedom, Department of State  
Jeannette M. Windon, Special Assistant, Office of Democracy  
and Global Affairs, Department of State  
Steve Goldrup, Political Officer, Embassy Beijing  
Greg May, Political Officer, Embassy Beijing  
Andrea Goodman, China Desk Officer, Bureau of East Asian and  
Pacific Affairs, Department of State  
Jim Brown, Interpreter  
PRC

---

Wu Hailong, Director General, International Organizations and  
Conferences (IO) Dpartment, MFA  
Shen Yongxiang, Deputy Director General, IO Department, MFA  
Yao Maochen, Deputy Inspector, United Front Work Department,  
CPC Central Committee  
Teng Wei, Deputy Director General, Criminal Division,  
Legislative Affairs Commission of the National People's  
Congress Standing Committee  
Wan Yonghai, Presiding Judge, Second Criminal Division,  
Supreme People's Court  
Sun Maoli, Deputy Director General, Legal Affairs Department,  
Ministry of Public Security  
Liu Guoyu, Deputy Director General, Prison Administration  
Department, Ministry of Justice  
Guo Wei, Director General, Foreign Affairs Department, State  
Administration for Religious Affairs  
Liu Zhengrong, Director General (acting), Fifth Department,  
State Council Information Office  
Suolang Renzeng, Deputy Chief, Administration for Ethnic and  
Religious Affairs, Tibetan Autonomous Region  
Zhao Yubin, Director, North American and Oceanian Affairs

Department, MFA  
Yan Jiarong, Director, Human Rights Division, IO Department, MFA  
Yao Shaojun, Deputy Director, Human Rights Division, IO Department, MFA  
Xu Jing, Deputy Director, Human Rights Division, IO Department, MFA  
Zheng Zeguang, Director General, North American and Oceanian Affairs, MFA  
Zu Yanwei, Attache, IO Department, MFA  
Liu Lingxiao, Attache, IO Department, MFA  
Fang Qiang, Interpreter, MFA

#### Summary

13. (C) MFA International Organizations and Conferences Department Director General Wu Hailong and Assistant Secretary of State for Democracy, Human Rights and Labor David J. Kramer conducted the 14th round of the U.S.-China Human Rights Dialogue on May 26. The tone of the Dialogue, the first since December 2002, was positive. However, it is difficult to assess whether the positive atmosphere of the Dialogue will translate into concrete steps by the Chinese. The Chinese made no firm commitments to immediate action on our "issues for consideration" or on prisoner releases. The two sides agreed in principle to conduct another round of the Dialogue after the Olympics.

14. (C) On the margins of the meeting, the Chinese vaguely hinted at the possibility of some releases (Rebiya Kadeer's

BEIJING 00002103 002 OF 010

two sons and the remaining Tiananmen prisoners, in particular). The Chinese accepted our prisoner lists, provided updates on twenty prisoners on the lists, and even tacitly acknowledged that movement on prisoners would create a better atmosphere ahead of President Bush's visit in August. In the morning session of dialogue on May 26, A/S Kramer urged the Chinese to make permanent their January 2007 temporary regulations that ease restrictions on foreign media up to and through the Olympics, provide greater freedom to Chinese journalists and lift restrictions on the Internet, and praised the role of the media in the aftermath of the Sichuan earthquake. On press freedom, Kramer expressed concern about threats to journalists and stressed the importance of permitting them unfettered access and ensuring their sources' safety. The Chinese side volunteered the importance of bringing their national laws into compliance with international standards so they could ratify the International Covenant on Civil and Political Rights.

15. (C) A/S Kramer urged the Chinese government to consider the release of prisoners, including high-profile cases on the list the Deputy Secretary passed to the Chinese government, prisoners scheduled to complete their sentences in 2009 and Tiananmen-related cases. DG Wu said China would try to address U.S. concerns about individual cases but that the treatment of cases must accord with Chinese law. The discussion on legal cases and rule of law led the Chinese side to propose another round of our Legal Experts Talks. China announced they were working on a two-year National Action Plan on Human Rights for 2009-2010. A first for China, the plan would take effect next January. End Summary.

#### Earthquake Condolences

16. (C) DG Wu thanked A/S Kramer for his May 16 letter expressing condolences for the May 12 Sichuan earthquake and for U.S. offers of assistance, including medicine and supplies. The Chinese Government's swift response to the disaster focused on saving lives and respected the people's right to information, he said. Such measures demonstrate China's respect for the right to life and survival. A/S Kramer reiterated the United States' deepest condolences over

the deaths, injuries and destruction caused by the earthquake. If there is a positive outcome that has come from the calamity, A/S Kramer remarked, it is the remarkable response of the Chinese Government, NGOs, civil society and ordinary Chinese citizens to the earthquake. He also expressed hope that the high degree of media access to the earthquake zone would become a new standard for China. A/S Kramer expressed gratitude that two American citizens visiting the Wolong Panda Reserve on May 12 were rescued by a Chinese helicopter. A/S Kramer noted that the delegation spent several hours at the Embassy on May 24 assembling emergency kits as a small contribution to the relief effort.

#### Principles for Dialogue

17. (C) DG Wu placed the HRD in the context of constructive and cooperative relations between the United States and China, saying that both sides should engage in dialogue, address differences and avoid disruptions to the larger relationship. He noted that 2008 is an important year for bilateral relations, and that human rights is an important issue between the two sides. The United States was the first country to hold an HRD with China starting in 1990, and 13 rounds have taken place. The dialogue has been suspended many times, however, including since 2002. DG Wu expressed hope that both sides learn the lessons of the past and avoid repeating the cycle of dialogue and suspension. To this end, he proposed four principles for the dialogue. 1) Equality and mutual respect. We should not impose our own perspective, ideas and models, nor make unrealistic requests. 2) Constructive approach. It is normal to have differences due to "differences in national conditions," but the best way of dealing with them is through exchange and dialogue. In order to produce positive results, both sides should "refrain from words and deeds" that jeopardize the positive atmosphere. 3) Results should be viewed comprehensively and objectively. Narrowing differences on human rights is an incremental process, and differences cannot be resolved through only a few rounds of dialogue. Dialogue should not be one-sided, and success should not be measured by the disposition of specific cases but rather by expanding consensus and narrowing differences. 4) The HRD is an important component of our bilateral ties but not the whole relationship. DG Wu expressed hope that if the two sides can

BEIJING 00002103 003 OF 010

be open, candid and practical, human rights will become a positive factor in U.S.-China relations. Noting that A/S Kramer has only recently taken up his position, DG Wu said A/S Kramer has "no historic burden" and that the Chinese expect an open and frank exchange that will open a new chapter in the HRD.

18. (C) A/S Kramer agreed with DG Wu that being open, candid and practical is a good recipe for constructive dialogue. He agreed that the HRD should become a positive element in bilateral relations and said that the two sides should work together on the basis of equality and respect to achieve concrete results, including the scheduling of another round of the HRD. Noting that the U.S. Government, Congress and NGOs are keenly interested in the outcome of the HRD, A/S Kramer affirmed he did not come to Beijing to score debating points, lecture, or have philosophical discussions, but to achieve progress as "real partners." With less than a hundred days before the Olympics, the stakes are high for both sides. The United States hopes for a successful Olympics, and President Bush plans to join the Chinese people in celebrating the Games on August 8. When he accepted President Hu Jintao's invitation, he said that the Olympics give China the opportunity to showcase its economic progress and also show greater openness and tolerance. China still has a significant opportunity to make concrete progress and thereby shift the focus of discussion toward China's achievements and the Games and away from human rights questions, and the United States would like to help. With

this in mind, A/S Kramer proposed three principles that guided previous HRD sessions. The talks should be candid and transparent, results-oriented and focused on international standards.

#### China's Human Rights Achievements since 2002

-----

¶9. (C) DG Wu thanked A/S Kramer for U.S. support for the Olympics, and specifically for cooperation on the torch relay in San Francisco. As there has been no HRD since 2002, Wu offered a lengthy account of progress China has made in the human rights field since then.

#### Judicial Reform

-----

¶10. (C) In the legislative field, China added a statement on protecting human rights to the PRC Constitution in 2004, which DG Wu described as "a new historic stage" in the state's protections of human rights in China. China is currently working on a lawyers' law, due to take effect in June, which grants attorneys the right to meet with clients, the right to defend clients, the right to review and investigate evidence, protection for personal security and immunity for statements made in defense of a client. In October 2007, China passed a civil procedure law that governs retrial procedures, filing complaints, improving the legal supervision of the Procuratorate and strengthening law enforcement agencies.

¶11. (C) Since the end of 2004, China has implemented 35 judicial reforms, DG Wu stated. For example, in 2007, China implemented a measure that allows the Supreme People's Court to review death penalty cases, and to date, 15 percent of cases reviewed have been overturned. For the first time, according DG Wu, suspended death sentences outnumber sentences that result in immediate execution. In July 2006, China implemented a ruling governing audio- and video-taping of court proceedings. The Supreme People's Court and Supreme People's Procuratorate issued a joint legal interpretation establishing clear rules to prevent coerced confession by video-recording all stages of interrogation. By August 2007, 350,000 cases had been recorded by 2,829 People's Procuratorates. At present, over 40 percent of PSB interrogations are recorded. China has expanded "community correction" pilot programs, involving parole, probation, sentenced surveillance, house arrest, serving prison sentences outside of prison and the deprivation of political rights in society. By March 2008, over 25 provinces were participating in the program. China has enhanced legal aid programs through the establishment of 32,589 legal aid centers nationwide that have assisted with 428,000 cases over the past five years. Over the past five years, courts have provided legal assistance to 1.27 million people, covering fees amounting to 5.4 billion RMB. In addition, China has launched a pilot program to assist victims of crime. China is strengthening judicial supervision through the appointment of 56,000 People's Assessors, who have participated in 1.2

BEIJING 00002103 004 OF 010

million judicial cases. DG Wu said that in the future, drawing from foreign experience, China will implement pilot programs to use juries in complex cases.

#### Administrative Law Reform

-----

¶12. (C) DG Wu detailed administrative reforms designed to provide checks on government power. The National People's Congress in May passed regulations requiring government to be transparent and provide information to the public in such matters as compensation for demolition of buildings and publishing of the administrative license law. DG Wu noted China's efforts to strengthen administrative trial procedures, noting such trials are as important as criminal

or civil trials. In the past seven years, courts have tried 640 cases against public officials, and in 30 percent of the cases the plaintiff has won, a proportion higher than in most countries, according to DG Wu. The Supreme People's Court ruled in June 2007 that such cases be moved out of the jurisdiction where the official works in order to prevent judicial interference and eliminate local interference. Also in June 2007, the Supreme People's Court implemented an administrative review law that improves procedures and regulations with regard to compensation issues.

#### Reforms Affecting Social, Economic and Social Rights

-----

¶13. (C) DG Wu detailed improvements the Chinese Government has made in promoting social, economic and cultural rights and to protect underprivileged groups. A new labor law went into effect in May 2008 that protects workers rights and provides more job security, health insurance and unemployment insurance. In August 2007, China enacted an employment promotion law that provides assistance to the unemployed, people with disabilities and farmers who have lost their land. In May, China implemented a law addressing labor disputes that provides for the use of mediation and arbitration mechanisms. In the area of compulsory education, DG Wu said that the Chinese Government has eliminated tuition and other fees for 150 million students in rural areas. In addition, living allowances have been provided to 7.8 million students who attend boarding schools. DG Wu noted that the law offering legal and social protection to minors was passed in 2007 consistent with the UN Convention on the Rights of the Child. In March 2007, China implemented its first property law providing equal protection to private, state and collective property. DG Wu noted that steps have been taken to improve the lot of migrant workers in the cities, including payment of wage arrearages and provision of health insurance to 30 million workers. Trade unions have established worker rights centers. China is working to expand rural medical insurance schemes and a living allowance program that currently covers 34 million rural residents.

#### National Human Rights Action Plan

-----

¶14. (C) In honor of the 60th anniversary of the Universal Declaration on Human Rights, the Vienna Declaration, and the 1993 Program of Action, China is working on a National Human Rights Action Plan to cover the 2009-10 period, involving coordination of human rights promotion activities among various ministries over this period. The action plan incorporates comments from the international community. DG Wu said this "important document" represents the Chinese Government's serious commitment to the international community to improve human rights in China. DG Wu concluded that if one looked objectively and comprehensively at the past ten years, China's progress on human rights has been incomparable. By contrast, the State Department Human Rights report says China gets worse every year. China does have a lot of problems, DG Wu admitted, and, as a developing country, is still in the process of development and reform. Some of the problems are left over from history, and others have arisen as a by-product of China's Reform and Opening policy. The only way to resolve these problems is to continue the Reform and Opening process and continue learning from other countries, including the United States. China expects to continue the development of human rights through the principles of scientific development and a people-first approach.

#### Human Rights Developments in the United States

-----

¶15. (C) (Note: In the interest of preserving time to address

BEIJING 00002103 005 OF 010

the U.S. side's substantive agenda, the U.S. delegation kept



its discussion on this topic as brief as possible.) A/S Kramer noted that in July, the United States will celebrate 232 years of independence, and to this day, the United States is still making progress on human rights. In the November election in the United States, A/S Kramer noted, for the first time one of the major parties will be represented by a minority or a woman. A/S Kramer added that since September 11, 2001, the Administration, Congress and the American public have engaged in great debate on the need to protect civil liberties in the face of extremist terrorist threats.

¶16. (C) In providing a brief overview of some recent U.S. legal developments, Assistant Legal Advisor Robert Harris noted the Detainee Treatment Act of 2005, the Military Commissions Act and recent amendments to the U.S. Army Field Manual. Harris pointed out that the U.S. Supreme Court in recent years has ruled that those under 18 years of age and the mentally retarded cannot be subject to the death penalty and is currently considering whether the death penalty can be applied in cases involving child rape. The United States has also improved its reporting to international human rights-related fora. The United States has submitted formal reports detailing its implementation of the UN Convention on Torture, the International Covenant on Civil and Political Rights (ICCPR), the UN Convention on the Elimination of All Forms of Racial Discrimination, and two optional protocols of the UN Convention on the Rights of the Child. Harris provided copies of U.S. Government reports related to the ICCPR and the Convention on Racial Discrimination. Harris noted that racial discrimination remains a problem in the United States, and that U.S. authorities at the federal and state level expend significant resources to combat this problem. Among other recent initiatives, Harris noted that the United States is working to end educational disparities through the No Child Left Behind Act, and is implementing a program to end healthcare disparities among Americans.

#### Rule of Law Technical Cooperation Should Continue

-----

¶17. (C) Noting that some of China's legal reforms have been successfully implemented and some areas still require attention, DG Wu suggested that in the context of the HRD, bilateral technical cooperation on judicial issues should continue in the areas of revising criminal procedure law, alternative methods for punishing misdemeanors, juvenile justice and exchanges between law enforcement agencies.

¶18. (C) Legal Advisor Harris noted that those issues would be good new topics to supplement the current dialogue and that the U.S. side was interested in Judge Gao's August 2005 proposal to add the death penalty to the discussions. The United States looks forward to further exchanges with China on the implementation of recently enacted laws, in particular, the lawyers' law mentioned by DG Wu.

#### Freedom of the Press

-----

¶19. (C) A/S Kramer noted that China first committed in 2001 to eliminating restrictions on foreign journalists reporting on the Beijing Olympics. The United States welcomes the January 2007 temporary regulations that relax some of requirements for foreign journalists in China through October 2008. A/S Kramer urged the Chinese Government to fully implement the January 2007 temporary regulations and make them permanent. Noting that the original commitment in 2001 did not distinguish between foreign and Chinese journalists, A/S Kramer also urged China to expand freedoms for domestic journalists. A/S Kramer noted the Foreign Correspondents Club of China's (FCCC) assessment that the temporary regulations have resulted in a general improvement in reporting conditions for journalists.

¶20. (C) However, A/S Kramer stated, the FCCC noted that the regulations have not been fully implemented. In 2007, the FCCC reported over 180 violations of the regulations, some involving violence, detentions, denial of access and lack of

protection for sources. Over 50 violations have occurred so far in 2008. A/S Kramer stressed that protection of sources is a critical component of media reporting. If people suffer because they talk to journalists, then journalists cannot fulfill their reporting responsibilities. The United States and China can work together to address implementation issues by local officials, A/S Kramer said.

¶21. (C) Equally disturbing, A/S Kramer stated, are the death

BEIJING 00002103 006 OF 010

threats received in recent months by at least ten foreign journalists covering the Tibet issue. The Chinese people may have strong feelings against some Western press commentators, but journalists have a right to express their views, Kramer emphasized. A/S Kramer stated, "It is a dangerous path to take to decide what journalists can and cannot say." In this context, A/S Kramer said, it would be helpful for Chinese authorities to strongly condemn death threats against foreign journalists.

¶22. (C) A/S Kramer urged Chinese authorities to lift restrictions on access to certain areas in China so that journalists can file reports from areas they deem newsworthy.

A/S Kramer noted that while a Chinese student attending A/S Kramer's May 25 speech at the Foreign Affairs University asserted that such limitations are imposed to protect journalists, journalists are better positioned to judge for themselves the risks to their personal safety of entering an area to pursue a reporting opportunity. Firsthand accounts from journalists in the field are vital to keep the Chinese and Western public informed, A/S Kramer said. Allowing journalists into Tibet and other areas is in the interests of both China and Western countries, A/S Kramer argued.

¶23. (C) A/S Kramer stressed that by permitting increased access and liberties to journalists, the Chinese Government will help ensure that freedom of the press is not an issue during the Olympic Games. A/S Kramer noted that the more open press coverage of the Sichuan earthquake generated positive international and domestic reactions, thus providing a positive model for China to embrace in the future. The United States believes this positive atmosphere for press covering the earthquake disaster should transcend earthquake-related coverage and be applied "across the board," A/S Kramer said.

¶24. (C) A/S Kramer pointed out that a free press is vital to a country's development, because it helps keep government officials honest and accountable, roots out corruption and serves as an additional check and balance on government. The United States wishes to assist in reform efforts so that the growth of freedom of the press matches China's phenomenal economic growth.

¶25. (C) DG Wu responded that many Chinese Government ministries and departments have supported implementation of the January 2007 temporary media regulations covering foreign journalists in the run-up to the Beijing Olympics through numerous training workshops and seminars for local government officials. To "properly address" problems encountered by foreign journalists, the MFA Information Department established a 24-hour hotline, a measure not implemented in any other country according to DG Wu. China's positive efforts to facilitate journalists' activities are reflected in the large numbers of journalists in China, DG Wu said. Wu stated that in 2007 the number of foreign journalists based in China rose to 768, while the number of journalists temporarily assigned to China rose to 6,500.

¶26. (C) DG Wu said that denial of access to certain areas for some journalists can be attributed to incomplete implementation of the appropriate regulations. It takes time, DG Wu stated, for local officials to understand and fully implement the new regulations, particularly when they lack experience with media or distrust Western media. Such a

suspicion is justified, DG Wu said, because some members of the Western media take a "one-sided" approach and only report on "issues they are interested in," while Chinese officials "provide the whole picture." DG Wu said that establishing mutual trust and cooperation with Western media outlets will take time. DG Wu said that some journalists were denied access to certain areas because the journalists did not follow relevant regulations and did not contact relevant government offices. In other cases, Wu said, the people requesting access were not accredited journalists. Overall, DG Wu said, China believes that the number of problems arising after the January 2007 media regulations were put into effect is relatively small, particularly when compared to the 10,000 media articles published annually concerning China. He asserted that limitations on press freedoms do not affect Chinese journalists, saying their activities "are free, smooth, and receive legal protection."

¶27. (C) DG Wu said that "some factors" are involved in death threats to foreign journalists. Western media, including U.S. media, produced "distorted and untruthful" reports on the Olympic Torch Relay and on the "violent crimes" in Lhasa on March 14, which "aroused strong feelings" in the Chinese

BEIJING 00002103 007 OF 010

people. Stating that China believes truthfulness should be part of the "code of conduct" for journalists, DG Wu said that recent Western media reporting ran counter to the professional ethics of journalists and undermined the image of Western media in the eyes of the Chinese people.

¶28. (C) DG Wu noted that as the Olympic Games approach, despite the behavior of the Western media, China will retain its "open policy" to the media. China welcomes foreign journalists and will "protect their rights and interests," DG Wu said. He stated that the Chinese people are "not hostile" to the outside world and foreign journalists, but that China is opposed to distorted coverage of separatist activities that undermine national sovereignty. DG Wu stressed that in their reporting, journalists should "be impartial and objective, and not offend the Chinese people." DG Wu affirmed that the Chinese Government is "against abusing or threatening foreign journalists, and if journalists believe they are under threat, they should "report to the police." He claimed that to date, no foreign journalists in China have been physically injured.

¶29. (C) A/S Kramer noted that while some recent Western media comments and reports may have been offensive to the Chinese, they did not justify death threats against journalists. A/S Kramer stressed that threats to journalists' personal safety undermine freedom of the press. A/S Kramer reiterated that people who provide information to journalists should not have to fear prosecution or endure threats to their personal safety. He noted that it is "perfectly normal" for private citizens or government officials to refuse to speak on the record to the media but stressed that journalists should not have to fear for their personal safety in the course of pursuing their work. A/S Kramer urged China to clearly condemn the death threats to journalists, particularly in light of the large number of journalists arriving to cover the Olympics, to help move the focus of media attention to the Games instead of on conditions for foreign journalists in China.

Internet Freedom  
-----

¶30. (C) A/S Kramer stated that the Internet should be respected by all governments. He noted that at the 2005 UN World Summit on the Information Society held in Tunis, China signed on to the Summit outcome document "recogniz(ing) that freedom of expression and the free flow of information, ideas and knowledge are essential for the Information Society and beneficial to development." A/S Kramer said that the degree of Internet freedom provides a critical assessment of a



society's development, and the United States urges that unfettered Internet access for Chinese people and foreign journalists continue through the Olympic Games and indefinitely afterward. Such a measure would help focus media attention on China's successful achievements in organizing the Olympic Games, A/S Kramer said.

131. (C) DG Liu Zhengrong of the State Council Information Office remarked that he supports increased exchanges between the United States and China to discuss Internet topics, because the United States lacks understanding about the Internet situation in China. He said that China has received great benefit from the Internet and noted that Chinese citizens increasingly use the Internet to freely express their opinions, an observation confirmed by foreign experts, according to DG Liu. However, "freedom is not an absolute," he said, opining that both China and the United States both place limitations on Internet use. DG Liu said that only in "a handful of circumstances" do Chinese Internet service providers "make readjustments" to information on the Internet. DG Liu said that the Chinese Government has adopted an "accurate position" on "management" or "governance" of the Internet with the goal of increasing the Internet's usefulness. The essence of Chinese Government Internet governance, he said, is to make "behavior on the Internet more standardized." DG Liu said that if the Chinese Government's policy on the Internet were "wrong," China would have been unable to develop great public interest in the Internet or establish an "attractive" Internet market. The key for Internet administration, according to DG Liu, is to be "law-based," and though the Chinese Government makes "great efforts" in managing the Internet, China still needs to improve its Internet administration.

132. (C) DG Liu stated that U.S. experience with the Internet can assist China. He added that after studying "all relevant U.S. legislation related to the Internet," DG Liu concluded

BEIJING 00002103 008 OF 010

that the United States and China share a common objective to make the Internet "more effective and trustworthy." DG Liu stated that with 120 new Chinese Internet users logging on every minute, the United States and China should enhance exchanges on the use and growth of the Internet. Both sides should not be misled by "distorted media coverage" whose reports on Internet restrictions in China most Chinese netizens would find "ridiculous." DG Liu stressed that the "Internet is open," will become more open and, because of its worldwide reach, must remain open.

133. (C) A/S Kramer pointed out that the United States and China have fundamentally different approaches to the Internet, and welcomed further discussions on this topic. The free flow of ideas, he stated, is that government does not manage the flow of information. Whether one speaks of "management," "governance" or "standardization" of the Internet, the United States does not believe such activities are an appropriate role of government. "Let the marketplace of ideas prevail," not the government's control over content, A/S Kramer stressed.

#### Internet Users in Detention -----

134. (C) Acknowledging that China has more Internet users than the United States, A/S Kramer pointed out that China unfortunately also holds 51 people in jail for peacefully expressing their opinions over the Internet, according to NGO reports. DG Wu, professing surprise at the NGO figures, stated that in China, expressing ideas without taking actions that lead to criminal activity is not a crime. He added that it is highly unlikely a person would be detained because of "political feeling." China is a country under the rule of law, DG Wu averred. But if people, including journalists, violate the law, they will be punished.

135. (C) DG Wu said "freedom of the press is not absolute,"

citing Article 19 of the ICCPR, which states that the exercise of political speech shall be restricted "for respect of the rights and reputations of others and for the protection of national security or of public order, or of public health and morals." DG Wu also pointed to Article 20 of the ICCPR, which prohibits advocating national, religious or ethnic hatred. As another example illustrating the limits of tolerance for freedom of expression, DG Wu suggested that a person in the United States who advocates terrorism would be punished. DG Wu said that though China has yet to ratify the ICCPR, its freedom of speech laws are in conformity with the Covenant.

#### Prisoners List

136. (C) A/S Kramer stated that China's review and release of persons named in the list of cases of particular concern presented by the United States during the Deputy Secretary's May visit would send a powerful signal of progress on human rights issues. The attention these cases receive both in the Western media and in China produce a negative image of China.

#### High-Profile Cases

137. (C) A/S Kramer noted a number of high-profile cases of international interest, including three cases raised by the Secretary during her visit to China in February: Hu Jia, Shi Tao and Jude Shao. The case of blind civil rights activist Chen Guangcheng has generated much sympathy in the international community, A/S Kramer reminded his counterparts. A/S Kramer also expressed concern about human rights lawyer Gao Zhisheng.

#### Sentences Fully Served by 2009

138. (C) A/S Kramer said that a number of persons on the U.S. list of cases of concern will complete their prison sentences in 2009, and in the run-up to the Olympics, their early release would accrue credit to the Chinese Government. DG Wu responded that the Chinese Government has on only seven occasions since 1949 invoked the administrative mechanism for early prisoner release. He said that the Ministry of Justice decides on the length of prisoners' incarceration on a case-by-case basis. Since China is a country under the rule of law, DG Wu continued, if China were to take measures based on foreign attention to certain cases, this would violate the principle that every person is equal under the law. Such

BEIJING 00002103 009 OF 010

actions are not consistent with the spirit of fairness and justice, he asserted. DG Wu said it is understandable if the United States is concerned about cases involving U.S. citizens, but concerns for the disposition of cases involving Chinese citizens by the Chinese judicial system constitute interference in China's judicial sovereignty. As the Olympics is an international sports event, he added, the Games should not be linked to judicial or criminal affairs.

#### Tiananmen Cases

139. (C) With the twentieth anniversary of Tiananmen approaching in 2009, A/S Kramer said, the early release of those imprisoned in connection with that crisis would be a positive gesture. A/S Kramer proposed that the Chinese Government grant visitation rights for these prisoners by U.S. Embassy representatives or "trusted third parties" to check the health and welfare of these individuals. A/S Kramer said that more information on the number of outstanding Tiananmen cases would help the United States better understand the scale of this issue. DG Wu stated that "nearly all" of those sentenced in connection with Tiananmen have been released, but added that within the framework of

Chinese law, the release of information on prisoners to outside authorities is not permitted.

#### Tibet Cases

¶40. (C) A/S Kramer called upon the Chinese Government to allow observers to attend judicial proceedings for persons arrested in connection with the Tibet unrest that began in March. DG Wu suggested further discussions on the Tibet court situation could take place at later meetings in the HRD.

#### Chinese Efforts Not Reciprocated

¶41. (C) Acknowledging that the U.S. Government "receives domestic pressure" regarding individual cases of concern, DG Wu said the Chinese Government is willing to take measures to address U.S. concerns in this area. DG Wu stressed that with "honest, joint efforts" progress is possible, but if progress is measured only by concessions on the Chinese side, such an approach is "short-sighted" and will "lead to a dead end." DG Wu stated that "in order to show sincerity," China has already responded with information on twenty persons included on the lists received from the United States, adding that China will continue to provide information on cases at the working level.

¶42. (C) DG Wu stated that China's positive efforts in previous cases "have not been reciprocated." DG Wu asserted that the United States, as part of the arrangements leading to the release of Rebiya Kadeer, Yang Jianli and Phuntsog Nyidrol, said it would prevent these persons from engaging in anti-China activities in the United States. Disregarding this commitment, DG Wu said, President Bush has met with Rebiya Kadeer, and U.S. foundations have offered to assist her in her political activities. DG Wu reiterated China's hope that the United States will fulfill its commitments by not allowing Rebiya Kadeer and others who have been released "to use U.S. soil" for anti-China activities.

#### The United States Does Not Limit Freedom of Speech

¶43. (C) A/S Kramer countered that the United States does not "muzzle" released prisoners upon their arrival in the United States. U.S. officials, however, do not seek to use these individuals to engage in anti-China activities, but believe it is important to listen to the accounts of those released to gain a better understanding of their situations. The United States is concerned about the harassment faced by family members of prisoners in China and of those now residing in the United States, for example, Rebiya Kadeer's children. Denying that such harassment exists, DG Wu stated that Rebiya Kadeer's sons have suffered legal consequences as a result of tax evasion and tax fraud.

¶44. (C) DAS Christensen stated that in considering the case of Rebiya Kadeer, it is important not to confuse freedom of speech in the United States with government support of the views expressed in the exercise of that freedom. While the U.S. Government supports Rebiya Kadeer's right to free speech, it does not support an aim often associated with Ms. Kadeer, independence for Xinjiang. The United States objects

BEIJING 00002103 010 OF 010

to the unfair treatment that Ms. Kadeer received while in China and the unfair treatment her sons are receiving in China today. The United States does not, and cannot by law, enter into agreements to prevent people from exercising their right of freedom of speech once they enter the United States.

¶45. (C) Assistant Legal Advisor Harris said that the United States understands China's position that any action it takes with respect to the release of political prisoners would have to comport with Chinese law. He noted, for example, that

sentence reduction and parole mechanisms are effective and available under Chinese law. Harris noted that in selecting persons for inclusion on the U.S. list of cases of concern, the United States typically identifies persons arrested for exercising freedoms of expression, association and religious belief, because these types of cases lie in areas where, under principles of human rights law, it is reasonable for foreign countries to raise concerns. Lastly, Harris added, the United States presents all of these cases with due respect for China's sovereignty.

¶46. (C) A/S Kramer closed by "strongly asking, as a friend of China," that the Chinese Government avoid backsliding on progress on issues related to political prisoners.  
PICCUTA